

# Notice of Allowability

Application No.

09/900,575

Examiner

Padmavathi v Baskar

Applicant(s)

LANGERMANN ET AL.

Art Unit

1645

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/19/03.
2. ☒ The allowed claim(s) is/are 1, 2, 3 and 10 and have been renumbered as 1-4 respectively.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

- |   |  |
|---|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                       |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>11/19/03 and</u> |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No. <u>517/03</u> | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment <u>12/9/03</u>                |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                   | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                         |
|   | 9 <input type="checkbox"/> Other   |

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#### DETAILED ACTION

1. Applicant's response filed on 10/31/2003 and 11/20/2003 is acknowledged. Claims 1, 2, 3 and 10 have been amended. Claims 1, 2, 3 and 10 are under prosecution as an elected invention, said election being made on 11/13/2002.

2. In view of amendments to the claims and arguments of record 10/31/03 and 11/19/03, the rejection of claims 2-3 under 35 U.S.C. 112, second paragraph is withdrawn.

3. In view of amendments to the claims and arguments of record 10/31/03 and 11/19/03, the rejection of claims 1-3 and 10 under 35 U.S.C. 102(b) as being anticipated by

Accession number: AC P08191 and Krogfelt et al (Infect. Immun 1990, 58(6): 1995-8) are

Withdrawn as the prior art do not disclose or teach novel FimH Adhesin Proteins such as an isolated polypeptide comprising residues 26 to 186 of SEQ ID NO: 29, wherein said polypeptide induces an antibody response that recognizes the polypeptide SEQ ID NO: 29, an isolated polypeptide comprising residues 1 to 186 of SEQ ID NO: 29, wherein said polypeptide induces an antibody response that recognizes the polypeptide SEQ ID NO: 29, an isolated polypeptide comprising the amino acid residues of SEQ ID NO: 29 and a vaccine composition comprising said isolated peptides.

4. In view of amendments to the claims, 11/20/03, the objection under 37 CFR 1.75(c) as being of improper dependent is withdrawn.

5. The examiner acknowledges the various amendments made on 10/31//03 to the specification in response to the Office action including the corrected Drawings.

6. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

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Authorization for this examiner's amendment was given in a telephone interview with Alan Grant on 12/9/03

The application has been amended as follows:

Claims 4-9 and 11-38 (non elected inventions) are canceled.

7. Claims 1-3 and 10 are allowed and have been renumbered as 1-4 respectively.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Padma Baskar Ph.D. whose telephone number is (703) 308-8886. The examiner can normally be reached on Monday through Friday from 6:30 A.M. to 4:00 P.M. EST

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (703) 308-3909. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Padma Baskar Ph.D.

12/8/03

  
MARK NAVARRO  
PRIMARY EXAMINER